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EXAMINER

WAGGENSPACK, ADAM J

ART UNIT	PAPER NUMBER
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3782

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,770	Applicant(s) CLINTON ET AL.	
	Examiner ADAM WAGGENSPACK	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mid-mount being disposed within the open channel (FIG. 5 shows the mid-mount being attached via fasteners 54 to the reinforcement structure 56, which extends down as far as the channel, and therefore the mid-mount would be below rather than within the open channel) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 10, 17, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent #6,338,428 to Kawasaki (Kawasaki). Kawasaki discloses:

With Respect to Claim 1

An elongated main body portion (2) including an open channel (center of pipe-shaped rail core 20, FIGS. 5-6); and an end portion (3, 4) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to a motor vehicle roof (FIGS. 1 and 2); and a mid-mount (center support bracket 50 and screws 15) disposed within said open channel (inasmuch as part of the screws are so disposed, FIGS. 17 and 21) and secured to the main body portion (via the screws) at a location between the opposing first and second ends as claimed (FIG. 3).

With Respect to Claim 10

An end cap (resin coating, FIG. 2) fixedly secured to each of said end portions for providing said roof rail with an aesthetically pleasing appearance.

With Respect to Claim 17

The mid-mount is integrally formed with said main body portion (FIG. 2).

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With Respect to Claim 22

An elongated main body portion (2) including an open channel (area within resin coating is an open channel to the extent broadly claimed, FIGS. 20 and 21); extending between opposing first and second ends (FIGS. 2, 20, and 21), said main body portion having a reinforcement structure (20) integrally molded within said open channel (FIGS. 20-21, 36-37 or 41-42); a mid-mount (50), wherein said reinforcement structure includes at least one aperture (25) for receiving a fastener (15) to secure said mid-mount to said main body portion (secured via securement to 20 which is secured to the body portion, FIGS. 17 and 21); and an end portion (3, 4) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to a motor vehicle roof (FIGS. 1 and 2).

With Respect to Claim 23

The main body portion includes a pair of spaced apart outer walls and a connecting wall extending therebetween (FIGS. 20 and 21), said pair of outer walls and said connecting wall defining said open channel (FIGS. 20 and 21).

With Respect to Claim 24

Said reinforcement structure extends between said pair of outer walls (FIGS. 20-21, 36-37 or 41-42).

With Respect to Claim 25

An elongated main body portion (2) including an open channel (area within resin coating is an open channel to the extent broadly claimed, FIGS. 20 and 21); extending in a longitudinal direction between opposing first and second ends (FIGS. 2, 20, and

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21), said main body portion including a pair of laterally spaced apart walls and a connecting wall therebetween defining said open channel (FIGS. 20 and 21); a reinforcement structure (20) integrally molded within said open channel and extending as claimed (FIGS. 20-21, 36-37 or 41-42) and including at least one aperture (25); a mid-mount (50) secured to said reinforcement structure with a fastener (15) extending as claimed (FIGS. 17 and 21); and an end portion (3, 4) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to a motor vehicle roof (FIGS. 1 and 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10, 12-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cucheran in view of Kawasaki.

With Respect to Claim 1

Cucheran discloses an elongated main body portion (112) including an open channel (126) extending between opposing first and second ends (Col. 7 lines 19-24, FIG. 10); and an end portion (116) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to the motor vehicle roof (Col. 6 lines 28-31 and Col. 7 lines 1-18); that the main body portion is injection molded (Col. 2 lines 56-58); and that various plastics could be used (Col. 5 lines 43-44); but

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does not disclose the mid-mount or the use of an organic resin material reinforced with long glass fibers.

However, Kawasaki discloses the use of a mid-mount (50 and 15) as claimed (see rejection of claim 1 using Kawasaki) and that this is well known in the art (Col. 2 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a mid-mount as taught by Kawasaki to the roof rail of Cucheran, in order to better support the center of the rail.

With Respect to Claim 2

Cucheran in view of Kawasaki as applied above discloses that the main body portion is injection molded (Cucheran Col. 2 lines 56-58); and that various plastics could be used (Cucheran Col. 5 lines 43-44); but does not disclose the mid-mount or the use of an organic resin material reinforced with long glass fibers.

However, Kawasaki discloses that it is known to make parts of a roof rail out of polypropylene (Col. 8 lines 1-5) which is an organic resin material, reinforced with long glass fibers (Col. 8 lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use polypropylene reinforced with glass fibers as taught by Kawasaki, as a mere selection of an art known plastic to use for the main body portion and end portions of Cucheran, or alternately as a mere substitution of one art known material for another.

With Respect to Claim 3

The organic resin material is a thermoplastic material (polypropylene).

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With Respect to Claim 4

The main body portion includes a pair of spaced apart outer walls and a connecting wall extending therebetween defining said open channel (Cucheran FIG. 10).

With Respect to Claim 5

The main body portion is generally C-shaped (Cucheran FIG. 10).

With Respect to Claim 6

The thermoplastic material is polypropylene.

With Respect to Claim 7

The polypropylene is reinforced with approximately 20% to 40% by weight long glass fibers (Kawasaki Col. 8 lines 5-9).

With Respect to Claim 8

The long glass fibers in said roof rail have a length of approximately 4-50 mm (Kawasaki Col. 8 lines 5-8).

With Respect to Claim 9

The polypropylene is reinforced with approximately 40% by weight long glass fibers (Kawasaki Col. 8 lines 5-9).

With Respect to Claim 10

An end cap (118) fixedly secured to each of said end portions (inasmuch as they are integrally molded together) for providing said roof rail with an aesthetically pleasing appearance.

With Respect to Claim 12

Said end cap is integrally formed with each of said end portions for providing said roof rail with an aesthetically pleasing appearance (Cucheran FIG. 11).

With Respect to Claim 13

Each end portion includes a bottom surface (120) and an outboard wall (118) extending upwardly therefrom.

With Respect to Claim 14

The bottom surface includes a plurality of mounting apertures (124) extending therethrough (Cucheran FIG. 11).

With Respect to Claim 15

Each of the end portions includes a loop structure (opening labelled 40 in the first embodiment of Cucheran, and shown but unlabelled in the second embodiment of Cucheran in FIGS. 9, 11, and 12) for providing a tie down point in order to secure articles to said roof rail (inasmuch as it is usable for this purpose).

With Respect to Claim 17

Cucheran in view of Kawasaki as applied above does not disclose that the mid-mount is integrally formed with said main body portion.

However, Cucheran discloses that the other mounts (116) are integrally formed with the main body portion (112), and that this construction allows for there to be no visible mold lines, seams, or other marks at the junctions of the components, manufacturing from a single injection molding tool, and for the side rail to be more quickly and easily assembled to the outer body surface of the vehicle (Col. 2 lines 52-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form the mid-mount using the same method as the remaining portions of the rail, in order to connect the parts without visible mold lines, seams or other marks, to manufacture the side rail from a single injection molding tool, and to allow the side rail to be more quickly and easily assembled to the outer body surface of the vehicle as taught by Cucheran.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cucheran in view of Kawasaki as applied to claim 10 above, and further in view of U.S. Patent #5,573,159 to Fisch (Fisch).

With Respect to Claim 11

Cucheran in view of Kawasaki does not disclose a clip for connecting an end cap to one of the end portions (116).

However, Fisch discloses a cover cap (8) that is mounted to a support foot (2) of a roof rail using a clip (11) in order to make the roof rail more stylistically attractive (Col. 1 lines 57-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a cover cap (8) as taught by Fisch to the roof rail of Cucheran in view of Kawasaki in order to make the roof rail more stylistically attractive, and to mount it using a clip (11) as taught by Fisch.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent #5,715,981 discloses a roof rail having an open channel and mid-mount located within the channel.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM WAGGENSPACK whose telephone number is (571)270-7418. The examiner can normally be reached on M-F 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./
Examiner, Art Unit 3782

/Justin M Larson/
Primary Examiner, Art Unit 3782
2/25/11